UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,337	06/26/2001	Marcus Bryan Grande	AUS9-2001-0384-US1	2237

40412 7590 07/01/2005		EXAMINER
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ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/891,337	GRANDE ET AL.
	Examiner	Art Unit	
	Richard Woo	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1)   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2)   Claims 1-7 and 14-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In Claim 1, there is no significant recitation of the data processing system or calculating computer for performing data processing operations, in which there is a significant change in the data.

In Claim 14, the computer program itself can not be directed to a practical application of the invention in the useful art to accomplish a concrete, useful, and tangible result. When the computer program is actually <u>executed by the computer</u>, the claimed subject matter produces a useful, concrete and tangible result.

Claim Rejections - 35 USC § 102

3)   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4)   Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Saari et

al. (US 6,338,046).

As for Claim 1, Saari et al. discloses a method comprising:

determining an amount of traffic on a computer network (col. 2, lines 2-35; col. 4,

line 3 – col. 5, line 55);

calculating a network usage price in response to the determination (see Id.); and

applying the network usage price to a network session (see Supra col. 5, lines

46-55).

As for Claim 2, Saari et al. further discloses the method comprising:

requesting traffic data from one or more network devices; and

receiving traffic data in response to the requests (see col. 4, lines 55-65).

As for Claim 3, Saari et al. further discloses the method, wherein the network devices

are selected from the group consisting of routers, switches, and computer systems (see

Fig. 1).

As for Claim 4, Saari et al. further discloses the method, comprising:

identifying a client computer system corresponding to the network session; and

sending the network usage price to the client computer system (col. 7, lines 19-

27).

As for Claim 5, Saari et al. further discloses the method comprising:

recording a session start time and the network usage price for the network

session;

identifying a session stop time for the network session;

determining an elapsed session time; and

calculating a session billing amount corresponding to the elapsed session time

and the network usage price (see col. 5, lines 33-45).

As for Claim 6, Saari et al. further discloses the method comprising:

storing one or more session billing amounts for one or more users;

calculating an invoice total for each of the users based on each user's

corresponding session billing amounts; and

preparing an invoice for each of the users, the invoice including each user's

invoice total (see Supra column 7).

As for Claim 7, Saari et al. further discloses the method comprising:

writing a high priority header to one or more packets originating from a computer

system corresponding the network session between the session start time and the

session stop time (see Fig. 2).

As for Claim 8, Saari et al. discloses a system comprising:

one or more processors;

a memory accessible by the processors;

a network interface connecting the information handling system to a computer

network (see Fig. 1); and

a network pricing tool to provide dynamic network pricing data, the network

pricing tool including:

means for determining an amount of traffic on a computer network

(col. 2, lines 2-35; col. 4, line 3 – col. 5, line 55);

means for calculating a network usage price in response to the

determination (see Id.); and

means for applying the network usage price to a network session

(see Supra col. 5, lines 46-55).

As for Claim 9, Saari et al. further discloses the system comprising:

means for requesting traffic data from one or more network devices; and

means for receiving traffic data in response to the requests (see col. 4, lines 55-

65).

As for Claim 10, Saari et al. further discloses the system, wherein the network devices

are selected from the group consisting of routers, switches, and computer systems (see

Fig. 1).

As for Claim 11, Saari et al. further discloses the system, comprising:

means for identifying a client computer system corresponding to the network

session; and

means for sending the network usage price to the client computer system (col. 7,

lines 19-27).

As for Claim 12, Saari et al. further discloses the system comprising:

means for recording a session start time and the network usage price for the

network session;

means for identifying a session stop time for the network session;

means for determining an elapsed session time; and

means for calculating a session billing amount corresponding to the elapsed

session time and the network usage price (see col. 5, lines 33-45).

As for Claim 13, Saari et al. further discloses the system comprising:

means for writing a high priority header to one or more packets originating from a

computer system corresponding the network session between the session start time

and the session stop time (see Fig. 2).

As for Claim 14, Saari et al. discloses a computer program product comprising:

means for determining an amount of traffic on a computer network (col. 2, lines

2-35; col. 4, line 3 – col. 5, line 55);

means for calculating a network usage price in response to the determination

(see Id.); and

means for applying the network usage price to a network session (see Supra col. 5,

lines 46-55).

As for Claim 15, Saari et al. further discloses the product comprising:

means for requesting traffic data from one or more network devices; and

means for receiving traffic data in response to the requests (see col. 4, lines 55-65).

As for Claim 16, Saari et al. further discloses the product, wherein the network devices are selected from the group consisting of routers, switches, and computer systems (see Fig. 1).

As for Claim 17, Saari et al. further discloses the product, comprising:

means for identifying a client computer system corresponding to the network session; and

means for sending the network usage price to the client computer system (col. 7, lines 19-27).

As for Claim 18, Saari et al. further discloses the product comprising:

means for recording a session start time and the network usage price for the network session;

means for identifying a session stop time for the network session;

means for determining an elapsed session time; and

means for calculating a session billing amount corresponding to the elapsed session time and the network usage price (see col. 5, lines 33-45).

As for Claim 19, Saari et al. further discloses the product comprising:

means for storing one or more session billing amounts for one or more users;

means for calculating an invoice total for each of the users based on each user's corresponding session billing amounts; and

means for preparing an invoice for each of the users, the invoice including each user's invoice total (see Supra column 7).

As for Claim 20, Saari et al. further discloses the product comprising:

means for writing a high priority header to one or more packets originating from a computer system corresponding the network session between the session start time and the session stop time (see Fig. 2).

Conclusion

5)   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

JP 11-88505 is cited to show a communication charge accounting method of a communication system in which impartial charging is conducted in a case of a business use or a private use in the case of communicating by a business purpose or a private purpose at the outside of an office.

US 6,208,977 is cited to show a method and system determining billing information for use of a network. The method collects traffic data for data transmissions sent over links of the network.

US 6,104,704 is cited to show a method and system for gathering and processing billing information for internet telephony connections. The server identifies originating and terminating clients and ISPs.

US 6,047,051 is cited to show a method for the implementation of charging in a

telecommunications system including customer terminals used by customers for

ordering services and servers for providing services to customers.

US 6,018,619 is cited to show a method and system for tracking usage patterns

of users of Web, that creates a usage log on a user's client computer and periodically

transmits the usage log from the user's client computer to a usage tracking server

computer to be incorporated in an overall usage log for a given information server
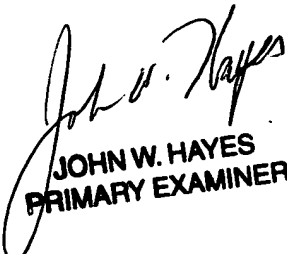
computer.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Richard Woo whose telephone number is 571-272-
6813. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00
PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for
the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

Richard Woo
Patent Examiner
Art Unit 3639
June 24, 2005

JOHN W. HAYES
PRIMARY EXAMINER